

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CR-134-BR

UNITED STATES OF AMERICA

v.

XAVIER MILTON EARQUHART

ORDER

This matter is before the court on defendant's *pro se* motions related to his appeal from this court's 14 June 2021 judgment on resentencing. Because the Fourth Circuit Court of Appeals recently allowed defendant's motion to proceed *pro se* on appeal, (DE # 400), the court considers these motions.

First, defendant requests that transcripts of his resentencing hearing on 8 and 9 June 2021 be prepared and that the Clerk certify and forward the record to the Fourth Circuit Court of Appeals. (DE # 389.) The Fourth Circuit Court of Appeals authorized the preparation of these transcripts at government expense and directed the preparation of them. (DE # 401.) Therefore, defendant's motion in this regard is DENIED as moot. To the extent defendant requests an order directing the Clerk to certify and forward the record, the motion is DENIED. The Clerk has already transmitted defendant's notice of appeal and docket sheet to the Fourth Circuit Court of Appeals. (DE # 382.) Upon request of the appellate court, the Clerk will transmit the electronic record.

Next, defendant seeks a digital copy of all docket entries in the case as well as digital and hard copies of unredacted trial exhibits. (DE # 395.) The court is unable to provide defendant

with any documents in a digital format. The court DIRECTS the Clerk to provide defendant with a copy of the docket sheet and copies of the exhibits used at his resentencing hearing. Although defendant is indigent and proceeding *pro se* on appeal, defendant is not entitled to copies of all (more than 250 admitted) trial exhibits. As the court recently recognized, “its role on remand was limited to resentencing defendant.” (6/17/21 Order, DE # 387, at 1.) None of the exhibits admitted during defendant’s trial were used during defendant’s resentencing. To the extent defendant believes one or more trial exhibits might be beneficial on appeal, he has not shown a particularized need for copies of the same. See United States v. Montgomery, 806 F. App’x 187, 188 (4th Cir. 2020) (per curiam) (“Copies of transcripts and court records may be provided to an indigent litigant at government expense upon a showing by the litigant of a particularized need for the documents.” (citing Jones v. Superintendent, Va. State Farm, 460 F.2d 150, 152-53 (4th Cir. 1972))). Defendant’s motion is ALLOWED to the extent he seeks copies of exhibits used at resentencing; otherwise, the motion is DENIED.

In his final motion, defendant requests that he be provided with unredacted copies of trial exhibits, all search and seizure warrants (including accompanying affidavits), and the list of all seized items. (DE # 398.) Except as otherwise ordered above with regard to copies of the exhibits used at resentencing, defendant’s motion is DENIED.

This 12 August 2021.



W. Earl Britt
Senior U.S. District Judge